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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,226	04/09/2001	Kevin A. McIntyre	3598-2	5634

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EXAMINER

FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 08/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/828,226

Applicant(s)

MCINTYRE, KEVIN A.

Examiner

Daniel S Felten

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 09 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-10 and 12-24 is/are rejected.
- 7) ☐ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 (c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-10 and 12-24 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Rackson et al (hereinafter "Rackson", US 6,415,270 B1).

Regarding Claims 1-10, 12, 19, 20, 22, and 23:

Rackson, discloses a method, as in claim 1, and computer system, as in claim 19, and as in claim 20, computer readable medium (see *memory*, col. 2, ll. 17-35), for conducting a transaction between a buyer and a seller over a global network (*Internet*), the method comprising:

(a) at least one user computer 30 running a computer program (see *multi-auction service*, col. 9, ll. 7+) that effects input information and receiving a lower limit price for a product from the seller (see *reserve price*, col. 3, ll. 13-15; and col. 11, ll. 5+)

1 (b) receiving an upper limit bid for the product from the buyer (see *optimal bidder*, col. 2, ll. 46-
2 65);

3 (c) a system server 14 running a server program (see fig. 3, *multi-auction service and/or remote*
4 *auction service*) , the at least one user computer and the system server being interconnected by a
5 computer network, the system server receiving the input information and processing the input
6 information. comparing (*matching*) the seller lower limit price and the buyer upper limit bid (see
7 at least, col. 25, ll. 3-55): and

8 (d) if an overlap region exists between the seller lower limit price and the buyer upper limit bid,
9 setting a price point for the product within the overlap region (see *matching*, at least col. 11, ll. 5-
10 32; and col. 25, ll. 3-55).

11 as claim 2, wherein if an overlap region exists between the seller lower limit price and the
12 buyer upper limit bid, step (d) is practiced by setting the price point for the product at a midpoint
13 of the overlap region (see col. 11, ll. 5-24).

14 as claim 3, further comprising (e) if an overlap region does not exist between the seller
15 lower limit price and the buyer upper limit bid, further processing the transaction according to
16 system parameters (see *rules*, col. 9, ll. 7-35; and col. 6, ll. 44-56).

17 as in claim 4, wherein step (e) is practiced by terminating the transaction (see col. 11, ll.
18 5-32).

19 as in claims 5 and 22, wherein step (e) is practiced by notifying the seller and the buyer
20 that an overlap region does not exist and requesting the seller and the buyer to either (1) adjust

1 the respective lower limit price and upper limit bid, or (2) terminate the transaction (see col. 12,
2 ll. 51).

3 as in claim 6, further comprising, after step (e), either (1) receiving an adjusted lower
4 limit price and an adjusted upper limit bid and repeating steps (c)-(e), or (2) receiving an
5 instruction to terminate the transaction (see col. 11, ll. 5-32).

6 as in claim 7, further comprising, after step (e) receiving one of an adjusted lower limit
7 price or an adjusted upper limit bid, and repeating steps (c)-(e) (see col. 11, ll. 5-32).

8 as in claim 8, wherein step (e) is practiced by setting a theoretical price point between the
9 lower limit price and the upper limit bid (see col. 11, ll. 5-32).

10 as in claims 9 and 23, wherein step (e) is practiced by setting a theoretical price point at a
11 midpoint between the lower limit price and the upper limit bid (see col. 11, ll. 5-32).

12 as in claim 10, further comprising providing the seller and the buyer with an opportunity
13 to agree on the theoretical price point, completing the transaction only if both the seller and the
14 buyer agree on the theoretical price point, and otherwise terminating the transaction (see *closing*
15 col. 11, ll. 5-32).

16 as in claim 12, wherein step (e) is further practiced by displaying a shortage region
17 representing a difference between the lower limit price and the upper limit bid to the seller and
18 the buyer (see col. 11, ll. 5-32).

19 An artisan of ordinary skill in the art at the time of the invention of Rackson would
20 have recognized that the terms *comparing* and *overlap* found in claim 1(c) and

1 1(d) are art recognized equivalents to the notoriously old and well known concept of
2 *matching*. *Matching* requires a system to judge between two items, or prices or processes to
3 consider “sameness”, “likeness” and/or “compatibility”. It is respectfully submitted that
4 Rackson discloses a system and/or embodiment in which comparing and overlapping
5 prices/criteria is involved (see references cited above) to provide the most advantageous (or
6 mutually beneficial) outcome for the buyer and the seller during the auction period. Thus the
7 concepts of *comparing* and *overlap* would have been an obvious expedient well within the
8 ordinary skill in the art.

9
10 **Regarding Claims 13-16:**

11 Rackson discloses a method according to claim 1, wherein step (a) is practiced by receiving a
12 lower limit price range from the seller that varies with time;

13 as in claim 14, wherein step (b) is practiced by receiving an upper limit bid range from
14 the buyer that varies with time;

15 as in claim 15, wherein step (a) is practiced by additionally receiving an expiration
16 relating to the product and by receiving a lower limit price range from the seller that varies with
17 time to the expiration; and

18 as in claim 16, a method according to claim 1, wherein step (b) is practiced by
19 additionally receiving an expiration relating to the upper limit bid and by receiving an upper limit

1 bid range from the buyer that varies with time to the expiration (see col. 17, ll. 21+; and col. 13,
2 ll. 25+).

3
4 **Regarding Claim 17:**

5 A method according to claim 1, wherein step (b) is practiced by allowing only one bid for the
6 product from the buyer (see col. 1, ll. 64+).

7
8 **Regarding Claim 18:**

9 further comprising compiling a database of information relating to sellers, buyers, products and
10 price points (see col. 2, ll. 46-65).

11
12 **Regarding Claim 24:**

13 A matrix system for conducting an auction over a global network, the matrix system comprising
14 bid type from both a buyer and a seller, the matrix system reflecting an allowance quality of a bid
15 as well as a derived price point (see col. 6, ll. 44+).

Allowable Subject Matter

3. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose providing a component for preventing gaming of the system.

Conclusion

5. A list of relevant prior art appears below not relied upon in this Office Action:

US Patents:

Odom et al (US 6,058,379) discloses a real time network exchange with seller specified exchange parameters and interactive seller participation

Alaia et al (US 6,199,050 B1) discloses a method and system for bidding in electronic auctions using flexible bidder determined line-item guidelines

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Daniel S. Felten** whose telephone number is (703) 305-0724. The examiner can normally be reached between the hours of 7:00AM to 5:30PM Monday-Thursday.

Any inquiry of a general nature relating to the status of this application or its proceedings should be directed to the Customer Service Office (703) 306-5631, or the examiner's supervisor **Vincent Millin** whose telephone number is (703) 308-1065.

7. Response to this action should be mailed to:


Commissioner of Patents and Trademarks

Washington, D.C. 20231

for formal communications intended for entry, or (703) 305-0040, for informal or draft communications, please label "Proposed" or "Draft".

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to *[daniel.felten@uspto.gov]*.

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1 195 OG 89.


DSF
August 6, 2002


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